

§ 1601. Definitions

For the purposes of this chapter—

(1) “vessel” means every description of watercraft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water; and

(2) “high seas” means all parts of the sea that are not included in the territorial sea or in the internal waters of any nation.

(Pub. L. 95–75, § 2, July 27, 1977, 91 Stat. 308.)

REFERENCES IN TEXT

This chapter, referred to in opening par., was in the original “this Act”, meaning Pub. L. 95–75, July 27, 1977, 91 Stat. 308, known as the “International Navigational Rules Act of 1977”, which enacted this chapter, repealed sections 1051 to 1094 of this title, enacted provisions set out as notes under this section, and repealed provision set out as a note under section 1051 of this title.

EFFECTIVE DATE OF INTERNATIONAL REGULATIONS;
REPEAL OF FORMER REGULATIONS

Section 10 of Pub. L. 95–75 provided in part that Pub. L. 88–131, enacting sections 1051 to 1094 of this title and a provision set out as a note under section 1051 of this title which sections included the former International Regulations for Preventing Collisions at Sea, was repealed effective on the date on which the International Regulations [promulgated pursuant to this chapter] entered into force for the United States [July 15, 1977]. See Proclamation dated Jan. 19, 1977, set out as a note under section 1602 of this title.

REFERENCES TO FORMER REGULATIONS

Section 10 of Pub. L. 95–75 provided in part that: “The reference in any other law to Public Law 88–131 [enacting sections 1051 to 1094 of this title and enacting a provision set out as a note under section 1051 of this title], or to the regulations set forth in section 4 of that Act [sections 1061 to 1094 of this title], shall be considered a reference, respectively, to this Act [this chapter], or to the International Regulations proclaimed hereunder [set out as a note under section 1602 of this title].”

SHORT TITLE

Section 1 of Pub. L. 95–75 provided: “That this Act [enacting this chapter, repealing sections 1051 to 1094 of this title, enacting provisions set out as notes under this section, and repealing provisions set out as a note under section 1051 of this title] may be cited as the ‘International Navigational Rules Act of 1977’.”

§ 1602. International Regulations

(a) Proclamation by President; effective date

The President is authorized to proclaim the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the “International Regulations”). The effective date of the International Regulations for the United States shall be specified in the proclamation and shall be the date as near as possible to, but no earlier than, the date on which the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the “Convention”), signed at London, England, under date of October 20, 1972, enters into force for the United States. The International Regulations proclaimed shall consist of the rules and other annexes attached to the Convention.

(b) Publication of proclamation in Federal Register

The proclamation shall include the International Regulations and shall be published in

the Federal Register. On the date specified in the proclamation, the International Regulations shall enter into force for the United States and shall have effect as if enacted by statute.

(c) Amendment of International Regulations

Subject to the provisions of subsection (d) of this section, the President is also authorized to proclaim any amendment to the International Regulations hereafter adopted in accordance with the provisions of article VI of the Convention, and to which the United States does not object. The effective date of the amendment shall be specified in the proclamation and shall be in accordance with the provisions of the said article VI. The proclamation shall include the adopted amendment and shall be published in the Federal Register. On the date specified in the proclamation, the amendment shall enter into force for the United States as a constituent part of the International Regulations, as amended, and shall have effect as if enacted by statute.

(d) Notification to Congress of proposed amendments; Congressional resolution of disapproval

(1) Upon receiving a proposed amendment to the International Regulations, communicated to the United States pursuant to clause 3 of article VI of the Convention, the President shall promptly notify the Congress of the proposed amendment. If, within sixty days after receipt of such notification by the Congress, or ten days prior to the date under clause 4 of article VI for registering an objection, whichever comes first, the Congress adopts a resolution of disapproval, such resolution shall be transmitted to the President and shall constitute an objection by the United States to the proposed amendment. If, upon receiving notification of the resolution of disapproval, the President has not already notified the Inter-Governmental Maritime Consultative Organization of an objection to the United States to the proposed amendment, he shall promptly do so.

(2) For the purposes of this subsection, “resolution of disapproval” means a concurrent resolution initiated by either House of the Congress, the matter after the resolving clause of which is to read as follows: “That the (the concurring) does not favor the proposed amendment to the International Regulations for Preventing Collisions at Sea, 1972, relating to , and forwarded to the Congress by the President on .”, the first blank space therein to be filled with the name of the resolving House, the second blank space therein to be filled with the name of the concurring House, the third blank space therein to be filled with the subject matter of the proposed amendment, and the fourth blank space therein to be filled with the day, month, and year.

(3) Any proposed amendment transmitted to the Congress by the President and any resolution of disapproval pertaining thereto shall be referred, in the House of Representatives, to the Committee on Transportation and Infrastructure, and shall be referred, in the Senate, to the Committee on Commerce, Science, and Transportation.

(Pub. L. 95-75, § 3, July 27, 1977, 91 Stat. 308; Pub. L. 107-295, title IV, § 408(b)(1), Nov. 25, 2002, 116 Stat. 2117.)

PRIOR PROVISIONS

The original rules for the prevention of collisions on the water were contained in R.S. § 4233, which consisted of 26 rules, R.S. § 4412, which authorized the board of supervising inspectors to establish such regulations to be observed by all steam vessels in passing each other, as they should from time to time deem necessary for safety, and provided that copies of such regulations should be furnished to all of such vessels, to be kept posted up in conspicuous places in such vessels, and R.S. § 4413, which prescribed a penalty for neglecting or willfully refusing to observe the regulations established pursuant to said section 4412.

The rules prescribed by R.S. § 4233 were superseded as to navigation on the high seas and in all coast waters of the United States, except such as were otherwise provided for, by the adoption of the "Revised International Regulations" by act March 3, 1885, ch. 354, 23 Stat. 438, which rules were superseded by the passage and adoption of act Aug. 19, 1890, ch. 802, 26 Stat. 322, section 1 of which enacted a set of regulations for preventing collisions at sea to be followed by all public and private vessels of the United States upon the high seas and in all waters connected therewith, navigable by seagoing vessels.

Act Aug. 19, 1890, ch. 802, § 1, consisted of 31 articles. Section 2 of act Aug. 19, 1890, ch. 802, repealed all laws and parts of laws inconsistent with the regulations for preventing collisions at sea for the navigation of all public and private vessels of the United States upon the high seas, and in all waters connected therewith navigable by seagoing vessels, prescribed by section 1 of that act.

The rules prescribed by R.S. § 4233, were further superseded as to navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal by act Feb. 8, 1895, ch. 64, 28 Stat. 645, section 1 of which enacted rules for preventing collisions to be followed in the navigation of all public and private vessels of the United States upon the Great Lakes and their connecting and tributary waters as far east as Montreal. Section 1 contained 28 articles. Section 2 of the act Feb. 8, 1895, ch. 64, prescribed a fine for violations of the act. Section 3 of the act Feb. 8, 1895, ch. 64, gave the Secretary of the Treasury authority to establish all necessary regulations not inconsistent with the act, necessary to carry the act into effect, and gave the Board of Supervising Inspectors of the United States authority to establish such regulations to be observed by all steam vessels in passing each other, not inconsistent with the act, as they should from time to time deem necessary, and provided that the regulations so adopted, when approved by the Secretary of the Treasury, should have the force of law. Section 4 of the act Feb. 8, 1895, ch. 64, repealed all laws or parts of laws, so far as applicable to the navigation of the Great Lakes and their connecting and tributary waters as far east as Montreal, inconsistent with the rules promulgated by the act.

The rules prescribed by R.S. § 4233, and by R.S. §§ 4412, 4414, and the regulations pursuant thereto, were required to be followed on the harbors, rivers, and inland waters of the United States, and the provisions of said sections were made special rules, duly made by local authority, relative to the navigation of harbors, rivers, and inland waters, as provided for by article 30 of the act Aug. 19, 1890, ch. 802, § 1, by act Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672. Section 2 of the act Feb. 19, 1895, ch. 102, authorized the Secretary of the Treasury to designate and define by the suitable bearing or range with light houses, light vessels, buoys, or coast objects, the lines dividing the high seas from rivers, harbors, and inland waters. Section 3 of the act Feb. 19, 1895, ch. 102, required collectors or other chief officers of the customs to require sail vessels to be furnished with proper sig-

nal lights, and prescribed a penalty to be assessed against vessels navigated without complying with the statutes of the United States, or the regulations lawfully made thereunder. Section 4 of the act Feb. 19, 1895, ch. 102, provided that the words "inland waters" should not be held to include the Great Lakes and their connecting and tributary waters as far east as Montreal, and provided that the act should not modify or affect the provisions of act Feb. 8, 1895, ch. 64, which was the act prescribing rules for preventing collisions to be followed in the navigation of all public and private vessels upon the Great Lakes and their connecting and tributary waters as far east as Montreal.

The rules prescribed by R.S. § 4233, were further superseded as to the navigation of all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, by act June 7, 1897, ch. 4, 30 Stat. 96, section 1 of which enacted a set of regulations for preventing collisions, to be followed by all vessels navigating all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries. Said section 1 consisted of 31 articles. Section 2 of the act June 7, 1897, ch. 4, authorized the supervising inspectors of steam-vessels and the Supervising Inspector-General to establish rules to be observed by steam vessels in passing each other and as to the lights to be carried by ferry-boats and by barges and canal-boats, when in tow of steam-vessels, not inconsistent with the provisions of the act, such rules, when approved by the Secretary of the Treasury, to be special rules duly made by local authority, as provided for by article 30 of the act Aug. 19, 1890, ch. 802, § 1 which article provided that nothing in the rules contained in that act should interfere with the operation of special rules, duly made by local authority, relative to the navigation of any harbor, river, or inland waters. Section 3 of the act June 7, 1897, ch. 4, prescribed a penalty for violations of the provisions of the act or the regulations established pursuant to section 2. Section 4 of the act June 7, 1897, ch. 4, also prescribed a penalty to be assessed against vessels navigated without compliance with the provisions of the act. Section 5 of the act June 7, 1897, ch. 4, repealed R.S. §§ 4233, 4412 (with the regulations made in pursuance thereof, except the rules and regulations for the government of pilots of steamers navigating the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, and except the rules for the Great Lakes and their connecting and tributary waters as far east as Montreal), § 4413, act March 3, 1893, ch. 202, 27 Stat. 557, which amended R.S. § 4233, act Feb. 19, 1895, ch. 102, §§ 1, 3, and act March 3, 1897, ch. 389, §§ 5, 12, 13, 29 Stat. 689, 690, and all amendments thereto insofar as the harbors, rivers, and inland waters of the United States (except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico, and their tributaries) were concerned.

This legislation resulted in the following situation: Navigation on the high seas was governed by act Aug. 19, 1890, ch. 802, with its amendatory and supplementary acts, which was superseded by act Oct. 11, 1951, ch. 495, formerly set forth in chapter 2 of this title; navigation on all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, was governed by act June 7, 1897, ch. 4, as amended, formerly set forth in chapter 3 of this title; navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal was governed by act Feb. 8, 1895, ch. 64, formerly set forth in section 301 et seq. of this title; and navigation on the Red River of the North and rivers emptying into the Gulf of Mexico and

their tributaries was governed by R.S. §4233, as amended and supplemented, formerly set forth in section 301 et seq. of this title.

See also Codification notes to sections 154, 241, and 301 of this title.

Regulations for Preventing Collisions at Sea, 1948, approved by the International Conference on Safety of Life at Sea, 1948, covering substantially the same subject matter included under these rules, were set out as sections 143 to 147d of this title.

Regulations for Preventing Collisions at Sea, 1960, approved by the International Conference on the Safety of Life at Sea, 1960, covering substantially the same subject matter included under these rules, were set out as sections 1051 to 1094 of this title.

AMENDMENTS

2002—Subsec. (d)(3). Pub. L. 107-295 substituted “Transportation and Infrastructure” for “Merchant Marine and Fisheries”.

INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA, 1948

The convention, known as the International Convention for Safety of Life at Sea, was signed at London on June 10, 1948, and was ratified by the United States on April 20, 1949 (see Senate Report No. 838, Sept. 26, 1951, to accompany H.R. 5013, 82nd Cong.). The “International Regulations for Preventing Collisions at Sea, 1948”, approved by the 1948 London conference, were adopted by section 6 of act Oct. 11, 1951, and were classified to section 144 et seq. of this title.

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

The convention, known as the International Convention for the Safety of Life at Sea, was signed at London on June 17, 1960, and was ratified by the United States on May 26, 1965 (see Senate Report No. 477, Aug. 30, 1963, to accompany H.R. 6012, 88th Cong.). The “Regulations for Preventing Collisions at Sea, 1960”, approved by the 1960 London conference, were adopted by section 4 of Pub. L. 88-131, Sept. 24, 1963, 77 Stat. 194, and were classified to section 1051 et seq. of this title.

INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

The Convention on the International Regulations for Preventing Collisions at Sea, 1972, was proclaimed by the President on Jan. 19, 1977. The President’s proclamation provided that the Convention enter into force for the United States on July 15, 1977. The proclamation and the International Regulations were published in the Federal Register on Mar. 31, 1977, 42 F.R. 17112, with corrections to the International Regulations published on Apr. 7, 1977, 42 F.R. 18401 and on Apr. 21, 1977, 42 F.R. 20625. The International Maritime Organization in London, England (<http://www.imo.org>) may be consulted for information with respect to subsequent amendments to the International Regulations.

EX. ORD. NO. 11964. IMPLEMENTATION OF CONVENTION ON THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Ex. Ord. No. 11964, Jan. 19, 1977, 42 F.R. 4327, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Section 301 of Title 3 of the United States Code, and as President of the United States of America and Commander-in-Chief of the Armed Forces, in order to provide for the coming into force on July 15, 1977, of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Senate Executive W, 93d Cong., 1st Sess.), it is hereby ordered as follows:

SECTION 1. (a) With respect to vessels of special construction or purpose, the Secretary of the Navy, for vessels of the Navy, and the Secretary of the Department in which the Coast Guard is operating, for all other vessels, shall determine and certify, in accord

with Rule I of the International Regulations for Preventing Collisions at Sea, 1972, hereinafter referred to as the International Regulations, as to which such vessels cannot comply fully with the provisions of any of the International Regulations with respect to the number, positions, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, without interfering with the special function of the vessel.

(b) With respect to vessels for which a certification is issued, the Secretary issuing the certification shall certify as to such other provisions which are the closest possible compliance by that vessel with the International Regulations.

(c) Notice of any certification issued shall be published in the FEDERAL REGISTER.

SEC. 2. The Secretary of the Navy is authorized to promulgate special rules with respect to additional station or signal lights or whistle signals for ships of war or vessels proceeding under convoy, and the Secretary of the Department in which the Coast Guard is operating is authorized, to the extent permitted by law, including the provisions of Title 14 of the United States Code, to promulgate special rules with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet. In accord with Rule I of the International Regulations, the additional station or signal lights or whistle signals contained in the special rules shall be, as far as possible, such as they cannot be mistaken for any light or signal authorized by the International Regulations. Notice of such special rules for fishing vessels shall be published in the FEDERAL REGISTER.

SEC. 3. The Secretary of the Navy, for vessels of the Navy, and the Secretary of the Department in which the Coast Guard is operating, for all other vessels, are authorized to exempt, in accord with Rule 38 of the International Regulations, any vessel or class of vessels, the keel of which is laid, or which is at a corresponding stage of construction, before July 15, 1977, from full compliance with the International Regulations, provided that such vessel or class of vessels complies with the requirements of the International Regulations for Preventing Collisions at Sea, 1960. Notice of any exemption granted shall be published in the FEDERAL REGISTER.

SEC. 4. The Secretary of the Department in which the Coast Guard is operating is authorized, to the extent permitted by law, to promulgate such rules and regulations that are necessary to implement the provisions of the Convention and International Regulations. He shall cause to be published in the FEDERAL REGISTER any implementing regulations or interpretive rulings promulgated pursuant to this Order, and shall promptly publish in the FEDERAL REGISTER the full text of the International Regulations.

GERALD R. FORD.

EX. ORD. NO. 12234. ENFORCEMENT OF CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

Ex. Ord. No. 12234, Sept. 3, 1980, 45 F.R. 58801, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to implement the International Convention for the Safety of Life at Sea, 1974, it is hereby ordered as follows:

1-101. The International Convention for the Safety of Life at Sea, 1974, signed at London on November 1, 1974, and proclaimed by the President of the United States on January 28, 1980 (TIAS 9700), entered into force for the United States on May 25, 1980.

1-102. The Secretary of State, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, and the Federal Communications Commission shall (a) perform those functions prescribed in the Convention that are within their respective areas of responsibility, and (b) cooperate and assist each other in carrying out those functions.

1-103. (a) The Secretary of the Department in which the Coast Guard is operating, or the head of any other Executive agency authorized by law, shall be responsible for the issuance of certificates as required by the Convention.

(b) If a certificate is to include matter that pertains to functions vested by law in another Executive agency, the issuing agency shall first ascertain from the other Executive agency the decision regarding that matter. The decision of that agency shall be final and binding on the issuing agency.

1-104. The Secretary of the Department in which the Coast Guard is operating may use the services of the American Bureau of Shipping as long as that Bureau is operated in compliance with Section 25 of the Act of June 5, 1920, as amended (46 U.S.C. 881), to perform the functions under the Convention. The Secretary may also use the services of the National Cargo Bureau to perform functions under Chapter VI (Carriage of Grain) of the Convention.

1-105. The Secretary of the Department in which the Coast Guard is operating shall promulgate regulations necessary to implement the provisions of the Convention.

1-106. To the extent that the International Convention for the Safety of Life at Sea, 1974, replaces and abrogates the International Convention for the Safety of Life at Sea, 1960 (TIAS 5780), this Order supersedes Executive Order No. 11239 of July 31, 1965, entitled "Enforcement of the Convention for the Safety of Life at Sea, 1960."

1-107. Executive Order No. 10402 of October 30, 1952, entitled "Enforcement of the Convention for the Safety of Life at Sea, 1948," is revoked.

JIMMY CARTER.

§ 1603. Vessels subject to International Regulations

Except as provided in section 1604 of this title and subject to the provisions of section 1605 of this title, the International Regulations, as proclaimed under section 1602 of this title, shall be applicable to, and shall be complied with by—

- (1) all vessels, public and private, subject to the jurisdiction of the United States, while upon the high seas or in waters connected therewith navigable by seagoing vessels, and
- (2) all other vessels when on waters subject to the jurisdiction of the United States.

(Pub. L. 95-75, § 4, July 27, 1977, 91 Stat. 309.)

§ 1604. Vessels not subject to International Regulations

(a) The International Regulations do not apply to vessels while in the waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States.

(b) Whenever a vessel subject to the jurisdiction of the United States is in the territorial waters of a foreign state the International Regulations shall be applicable to, and shall be complied with by, that vessel to the extent that the laws and regulations of the foreign state are not in conflict therewith.

(Pub. L. 95-75, § 5, July 27, 1977, 91 Stat. 309; Pub. L. 96-591, § 6(1), Dec. 24, 1980, 94 Stat. 3434.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-591 substituted provision providing that the International Regulations do not apply to vessels while in the waters of the United

States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States for provisions that had made specific reference to harbors, rivers, and other inland waters of the United States, as defined in section 154 of this title, to the Great Lakes of North America and their connecting and tributary waters, as defined in section 241 of this title, and to the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, as defined in section 301 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-591, § 7, Dec. 24, 1980, 94 Stat. 3435, provided that: "Sections 2, 4, 6(1), and 8(a) [enacting section 2072 and former sections 2001 to 2038 of this title, amending this section, and repealing sections 154 to 159, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, 232, 301 to 303, 311 to 323, 331, 341 to 356, 360, and 360a of this title and sections 526b, 526c, and 526d of former Title 46, Shipping] are effective 12 months after the date of enactment of this Act [Dec. 24, 1980], except that on the Great Lakes, the effective date of sections 2 and 4 [enacting section 2072 and former sections 2001 to 2038 of this title] will be established by the Secretary. [The effective date on the Great Lakes was established as Mar. 1, 1983. See 47 F.R. 15135, Apr. 8, 1982.] Section 5 [enacting section 2073 of this title] is effective on October 1, 1981."

§ 1605. Navy and Coast Guard vessels of special construction or purpose

(a) Certification for alternative compliance

Any requirement of the International Regulations with respect to the number, position, range, or arc of visibility of lights, with respect to shapes, or with respect to the disposition and characteristics of sound-signaling appliances, shall not be applicable to a vessel of special construction or purpose, whenever the Secretary of the Navy, for any vessel of the Navy, or the Secretary of the department in which the Coast Guard is operating, for any other vessel of the United States, shall certify that the vessel cannot comply fully with that requirement without interfering with the special function of the vessel.

(b) Closest possible compliance by vessels covered by certification for alternative compliance

Whenever a certification is issued under the authority of subsection (a) of this section, the vessel involved shall comply with the requirement as to which the certification is made to the extent that the Secretary issuing the certification shall certify as the closest possible compliance by that vessel.

(c) Publication of certifications in Federal Register

Notice of the certifications issued pursuant to subsections (a) and (b) of this section shall be published in the Federal Register.

(d) Issuance of certification for a class of vessels

A certification authorized by this section may be issued for a class of vessels.

(Pub. L. 95-75, § 6, July 27, 1977, 91 Stat. 309; Pub. L. 96-591, § 6(2), Dec. 24, 1980, 94 Stat. 3434.)

AMENDMENTS

1980—Subsec. (d). Pub. L. 96-591 added subsec. (d).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities

Par. (3)(B)(ii). Pub. L. 109-59, § 7102(2)(D)(ii), as amended by Pub. L. 110-244, § 302(a)(1), added cl. (ii) and struck out former cl. (ii) which read as follows: “manufactures, reconditions, or tests containers, drums, and packagings represented as qualified for use in transporting hazardous material.”

Par. (3)(C). Pub. L. 109-59, § 7102(2)(C), as amended by Pub. L. 110-244, § 302(a)(1), redesignated subpar. (C) as (B).

Par. (4). Pub. L. 109-59, § 7102(3), amended par. (4) generally. Prior to amendment, par. (4) consisted of subpars. (A) to (C), which included within definition of “hazmat employer” a person using at least one employee in connection with transporting or containers for transporting hazardous material, an owner-operator of a motor vehicle transporting hazardous material in commerce, and a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out certain described activities.

Par. (5). Pub. L. 109-59, § 7102(4), inserted “relating to hazardous material” after “of a condition”.

Par. (7). Pub. L. 109-59, § 7102(5), amended par. (7) generally. Prior to amendment, par. (7) read as follows: “‘motor carrier’ means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title.”

Par. (8). Pub. L. 109-59, § 7102(6), substituted “National Response Team” for “national response team” in two places and “National Contingency Plan” for “national contingency plan”.

Par. (9)(A). Pub. L. 109-59, § 7102(7), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “includes a government, Indian tribe, or authority of a government or tribe offering hazardous material for transportation in commerce or transporting hazardous material to further a commercial enterprise; but”.

Pars. (11) to (14). Pub. L. 109-59, § 7102(8), added par. (11) and redesignated former pars. (11) to (13) as (12) to (14), respectively.

1995—Par. (7). Pub. L. 104-88 substituted “motor carrier, motor private” for “motor common carrier, motor contract carrier, motor private” and “section 13102” for “section 10102”.

1994—Pars. (3)(C)(ii), (4)(A)(iii). Pub. L. 103-311 substituted “packagings” for “packages”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-244 effective as of the date of enactment of Pub. L. 109-59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109-59 as of that date, and provisions of Pub. L. 109-59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110-244 to be treated as not enacted, see section 121(b) of Pub. L. 110-244, set out as a note under section 101 of Title 23, Highways.

§ 5103. General regulatory authority

(a) DESIGNATING MATERIAL AS HAZARDOUS.—The Secretary shall designate material (including an explosive, radioactive material, infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material, and compressed gas) or a group or class of material as hazardous when the Secretary determines that transporting the material in commerce in a particular amount and form may pose an unreasonable risk to health and safety or property.

(b) REGULATIONS FOR SAFE TRANSPORTATION.—(1) The Secretary shall prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The regulations—

- (A) apply to a person who—
 - (i) transports hazardous material in commerce;

- (ii) causes hazardous material to be transported in commerce;

- (iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;

- (iv) prepares or accepts hazardous material for transportation in commerce;

- (v) is responsible for the safety of transporting hazardous material in commerce;

- (vi) certifies compliance with any requirement under this chapter; or

- (vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi); and

(B) shall govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate.

(2) A proceeding to prescribe the regulations must be conducted under section 553 of title 5, including an opportunity for informal oral presentation.

(c) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.

(d) BIENNIAL REPORT.—The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation a biennial report providing information on whether the Secretary has designated as hazardous materials for purposes of chapter 51 of such title all by-products of the methamphetamine-production process that are known by the Secretary to pose an unreasonable risk to health and safety or property when transported in commerce in a particular amount and form.

(Pub. L. 103-272, § 1(d), July 5, 1994, 108 Stat. 761; Pub. L. 103-311, title I, § 117(a)(2), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 103-429, § 6(3), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 107-296, title XVII, § 1711(a), Nov. 25, 2002, 116 Stat. 2319; Pub. L. 109-59, title VII, §§ 7103, 7126, Aug. 10, 2005, 119 Stat. 1893, 1909; Pub. L. 109-177, title VII, § 741, Mar. 9, 2006, 120 Stat. 272.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5103(a)	49 App.:1803.	Jan. 3, 1975, Pub. L. 93-633, § 104, 88 Stat. 2156.
5103(b)	49 App.:1804(a) (1)-(3).	Jan. 3, 1975, Pub. L. 93-633, § 105(a)(1)-(3), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101-615, § 4, 104 Stat. 3247.

In subsection (a), the words “such quantity and form of material” and “in his discretion” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “in accordance with section 553 of title 5” are omitted because 5:553 applies unless otherwise stated. In clause (A)(i), the words “hazardous material in commerce”,

and in clause (A)(ii), the words “hazardous material . . . in commerce”, are added for consistency in this chapter.

PUB. L. 103-429

This amends 49:5103(b)(2) to clarify the restatement of 49 App.:1804(a)(2) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 761).

AMENDMENTS

2006—Subsec. (d). Pub. L. 109-177 added subsec. (d).

2005—Subsec. (a). Pub. L. 109-59, § 7126, substituted “Secretary shall designate” for “Secretary of Transportation shall designate”.

Pub. L. 109-59, § 7103(a), substituted “infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,” for “etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material,” and “determines” for “decides”.

Subsec. (b)(1)(A). Pub. L. 109-59, § 7103(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “apply to a person—

“(i) transporting hazardous material in commerce;

“(ii) causing hazardous material to be transported in commerce; or

“(iii) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a packaging or a container that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce; and”.

Subsec. (b)(1)(C). Pub. L. 109-59, § 7103(c)(1), struck out heading and text of subpar. (C). Text read as follows: “When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.”

Subsec. (c). Pub. L. 109-59, § 7103(c)(2), added subsec. (c).

2002—Subsec. (b)(1). Pub. L. 107-296, § 1711(a)(1), substituted “transportation, including security,” for “transportation” in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 107-296, § 1711(a)(2), substituted “aspects, including security,” for “aspects”.

Subsec. (b)(1)(C). Pub. L. 107-296, § 1711(a)(3), added subpar. (C).

1994—Subsec. (b)(1)(A)(iii). Pub. L. 103-311 substituted “a packaging or a” for “a package or”.

Subsec. (b)(2). Pub. L. 103-429 substituted “be conducted under section 553 of title 5, including” for “include” and “presentation” for “presentations”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

RAILROAD CARRIER EMPLOYEE EXPOSURE TO RADIATION STUDY

Pub. L. 110-432, div. A, title IV, § 411, Oct. 16, 2008, 122 Stat. 4888, provided that:

“(a) STUDY.—The Secretary of Transportation shall, in consultation with the Secretary of Energy, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission, as appropriate, conduct a study of the potential hazards to which employees of railroad carriers and railroad contractors or subcontractors are exposed during the transportation of high-level radioactive waste and spent nuclear fuel (as defined in section 5101(a) [probably means section 5105(a)] of title 49, United States Code), supplementing the report submitted under section 5101(b) [probably

means section 5105(b)] of that title, which may include—

“(1) an analysis of the potential application of ‘as low as reasonably achievable’ principles for exposure to radiation to such employees with an emphasis on the need for special protection from radiation exposure for such employees during the first trimester of pregnancy or who are undergoing or have recently undergone radiation therapy;

“(2) the feasibility of requiring real-time dosimetry monitoring for such employees;

“(3) the feasibility of requiring routine radiation exposure monitoring in fixed railroad locations, such as yards and repair facilities; and

“(4) a review of the effectiveness of the Department’s packaging requirements for radioactive materials.

“(b) REPORT.—Not later than 18 months after the date of enactment of this Act [Oct. 16, 2008], the Secretary of Transportation shall transmit a report on the results of the study required by subsection (a) and any recommendations to further protect employees of a railroad carrier or of a contractor or subcontractor to a railroad carrier from unsafe exposure to radiation during the transportation of high-level radioactive waste and spent nuclear fuel to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

“(c) REGULATORY AUTHORITY.—The Secretary of Transportation may issue regulations that the Secretary determines appropriate, pursuant to the report required by subsection (b), to protect railroad employees from unsafe exposure to radiation during the transportation of radioactive materials.”

[For definitions of “railroad carrier”, “Department”, “railroad”, and “Secretary”, as used in section 411 of Pub. L. 110-432, set out above, see section 2(a) of Pub. L. 110-432, set out as a note under section 20102 of this title.]

SAFE PLACEMENT OF TRAIN CARS

Section 111 of Pub. L. 103-311 provided that: “The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act [Aug. 26, 1994].”

FIBER DRUM PACKAGING

Pub. L. 104-88, title IV, § 406, Dec. 29, 1995, 109 Stat. 957, provided that:

“(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of the enactment of this Act [Dec. 29, 1995] authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991, if—

“(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act [former 49 U.S.C. 1801 et seq.] as in effect on September 30, 1991; and

“(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation or materials in Packing Groups I and II.

“(b) EXPIRATION.—The regulation referred to in subsection (a) shall expire on the later of September 30, 1997, or the date on which funds are authorized to be appropriated to carry out chapter 51 of title 49, United States Code (relating to transportation of hazardous

materials), for fiscal years beginning after September 30, 1997.

“(c) STUDY.—

“(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act [Dec. 29, 1995], the Secretary shall contract with the National Academy of Sciences to conduct a study—

“(A) to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to fiber drum packaging with a removable head can be met for the transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards (including fiber drum industry standards set forth in a June 8, 1992, exemption application submitted to the Department of Transportation), other than the performance-oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations; and

“(B) to determine whether a packaging standard (including such fiber drum industry standards), other than such performance-oriented packaging standards, will provide an equal or greater level of safety for the transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect.

“(2) COMPLETION.—The study shall be completed before March 1, 1997 and shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

“(d) SECRETARIAL ACTION.—By September 30, 1997, the Secretary shall issue final regulations to determine what standards should apply to fiber drum packaging with a removable head for transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) after September 30, 1997. In issuing such regulations, the Secretary shall give full and substantial consideration to the results of the study conducted in subsection (c).”

Section 122 of Pub. L. 103-311 provided that:

“(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of enactment of this Act [Aug. 26, 1994], the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

“(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

“(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

“(d) LIMITATIONS.—

“(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

“(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.”

§ 5103a. Limitation on issuance of hazmat licenses

(a) LIMITATION.—

(1) ISSUANCE OF LICENSES.—A State may not issue to any individual a license to operate a motor vehicle transporting in commerce a hazardous material unless the Secretary of Homeland Security has first determined, upon receipt of a notification under subsection (d)(1)(B), that the individual does not pose a security risk warranting denial of the license.

(2) RENEWALS INCLUDED.—For the purposes of this section, the term “issue”, with respect to a license, includes renewal of the license.

(b) HAZARDOUS MATERIALS DESCRIBED.—The limitation in subsection (a) shall apply with respect to any material defined as hazardous material by the Secretary of Transportation for which the Secretary of Transportation requires placarding of a commercial motor vehicle transporting that material in commerce.

(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary of Transportation any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) if the Secretary of Health and Human Services determines that such material or agent poses a significant risk to the health of individuals.

(d) BACKGROUND RECORDS CHECK.—

(1) IN GENERAL.—Upon the request of a State regarding issuance of a license described in subsection (a)(1) to an individual, the Attorney General—

(A) shall carry out a background records check regarding the individual; and

(B) upon completing the background records check, shall notify the Secretary of Homeland Security of the completion and results of the background records check.

(2) SCOPE.—A background records check regarding an individual under this subsection shall consist of the following:

(A) A check of the relevant criminal history data bases.

(B) In the case of an alien, a check of the relevant data bases to determine the status of the alien under the immigration laws of the United States.

(C) As appropriate, a check of the relevant international data bases through Interpol-U.S. National Central Bureau or other appropriate means.

(e) REPORTING REQUIREMENT.—Each State shall submit to the Secretary of Homeland Security, at such time and in such manner as the Secretary of Homeland Security may prescribe, the name, address, and such other information as the Secretary of Homeland Security may require, concerning—

(1) each alien to whom the State issues a license described in subsection (a); and

(2) each other individual to whom such a license is issued, as the Secretary of Homeland Security may require.